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1 MR. BOSTWICK: Yes, you can answer the
2 question. I just objected to the form.

3 BY MR. STEWART:

4 Q. When Mr. Bostwick objects to the form,
5 there may be something that I haven't asked the
6 question in precisely the right way, or at least
7 he thinks I haven't, and that gives me a chance
8 if I -- and that gives me an opportunity to
9 revise my question if I think it's worthwhile.
10 But you are free to answer the question and
11 you're required to answer the question unless
12 Mr. Bostwick instructs you not to answer the
13 question.

14 In addition to those two major duties,
15 what other responsibility did you have?

16 A. It was very interesting working for
17 Ethypharm, because I found that it was a company
18 that had just been recently formed in Spain, and
19 I had to do absolutely everything. And when I
20 say everything, it included buying pens.
21 Pencils.

1 A. Yes.

2 Q. And tell me who you hired and for what
3 purpose.

4 A. I hired a person to serve as my
5 secretary, and in this case he was a man.

6 Q. And what was his name?

7 A. Eloy Gonzalez. With a Z at the end,
8 Gonzalez.

9 Q. Before we talk about other people that
10 you may have hired, throughout your tenure as
11 executive director, were you responsible for
12 handling -- did you have the ultimate
13 responsibility within Ethypharm Spain for
14 handling customer complaints?

15 A. I wasn't the last resort person, but it
16 was France.

17 Q. So when a customer would write a letter
18 complaining of some problem, would you respond to
19 that letter or would you immediately refer that
20 to France?

21 A. Normally, everything went to France.

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1 Q. Is it fair to say that you ran all of
2 the -- you were responsible for all the details
3 of running the office?

4 A. Yes.

5 THE WITNESS: I was touching the micro,
6 and -- I was doing something.

7 (Speaking in Spanish.)

8 A. I used to complain, friendly complaints
9 to the main office in France that they had hired
10 me as pharmaceutical general director in charge
11 of commerce and registration, but that I never
12 started the administration matters. Economic
13 administration matters. So then I had to seek
14 outside help in these areas.

15 Q. And at the time that you first became
16 General Director, how many employees did
17 Ethypharm Spain have?

18 A. One.

19 Q. You?

20 A. (Witness nods head.)

21 Q. Did you hire people to help you?

1 If it was a small complaint, I could take care of
2 it. But normally, everything went to France. I
3 thought that those were serious matters and that
4 clients should be treated with -- seriously.

5 Q. And with respect to determining the
6 salaries of the people who worked at Ethypharm
7 Spain, did you determine those salaries, or was
8 that the responsibility of Ethypharm France?

9 A. It was France always that -- the one
10 who had the last word. France was always in
11 charge of this, but as well as with the small
12 complaints, I could always deal with small
13 matters.

14 Q. Well, first, what was the largest
15 number of employees that Ethypharm Spain had
16 during your time as executive director?

17 A. Six plus one.

18 Q. The one being yourself?

19 A. No.

20 Q. Why do you express it that way?

21 A. Because it was like an estagier --

14 (Pages 50 to 53)

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1 THE WITNESS: Stage. Someone doing a
 2 stage in the company. (Speaking in Spanish.)
 3 A. It was an intern, someone who is
 4 finishing his studies.
 5 Q. So six employees plus an intern.
 6 A. Exactly.
 7 Q. Was there a salary? Did the people who
 8 were employed at Ethypharm Spain receive regular
 9 reviews of their performance and regular
 10 increases to their salary?
 11 A. Yes, according to law.
 12 Q. And what was your involvement, if any,
 13 in the review of their performance and what
 14 increases, if any, they would receive?
 15 A. The ones that are prescribed by law,
 16 the increases.
 17 Q. There is a Spanish law that requires
 18 that the increases be a certain amount?
 19 A. Yes.
 20 Q. From time to time, would you recommend
 21 that certain employees receive more than Spanish

1 A. It was either Ethypharm France or me.
 2 Q. What determined whether it was
 3 Ethypharm France or you?
 4 A. We changed secretaries, and Ethypharm
 5 France wanted the secretaries to speak French.
 6 And if they didn't know French well enough, we
 7 had to fire them.
 8 Q. Is it fair to say that other than
 9 secretaries, the decision to terminate managerial
 10 employees was made by France?
 11 A. The 29 of March of the year 2000,
 12 that's what happened.
 13 Q. That the terminations that occurred in
 14 March of 2000, those decisions were made by
 15 Ethypharm France; is that right?
 16 A. Yes.
 17 MR. STEWART: I'm told that we're about
 18 out of time for this tape, so why don't we take a
 19 short break.
 20 THE VIDEOGRAPHER: This ends tape
 21 number one of the De Basilio deposition. The

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1 law would require or that certain employees would
 2 receive a bonus?
 3 A. I don't remember. I do remember that
 4 there were some years in which attempts at the
 5 bonuses, since we were not having a particularly
 6 good year, didn't increase or didn't provide
 7 those bonuses as prescribed by law, and in some
 8 other years, we did, and we did increase not only
 9 the three percent stated by law, but 3.5 percent.
 10 Q. And who made the decision to increase
 11 the salary by 3.2 to 3.5 percent?
 12 A. Those small things were normally made
 13 by me.
 14 Q. During the course of your time as
 15 executive director, were any employees
 16 terminated?
 17 A. Yes.
 18 Q. And who terminated those employees?
 19 Let me withdraw that.
 20 Who made the decision to terminate
 21 those employees?

1 time is 11:43:33. Off the record.
 2 (Brief recess.)
 3 THE VIDEOGRAPHER: On the record with
 4 tape number two of the testimony of Adolfo de
 5 Basilio in the matter of Ethypharm versus Bentley
 6 Pharmaceuticals. The date is August 2nd, 2006.
 7 The time is 11:56:13.
 8 BY MR. STEWART:
 9 Q. Mr. De Basilio, I am trying to
 10 understand which responsibilities were directly
 11 assumed by Ethypharm France and which
 12 responsibility were assumed directly by you.
 13 That's the purpose of my questions. So I have a
 14 few more questions in this area.
 15 With respect to salaries and bonuses,
 16 in the sixteen years that you were executive
 17 director, were any Ethypharm Spain employees
 18 provided with or did they receive substantial
 19 bonuses? And by substantial, I mean something
 20 greater than a half a percent increase to their
 21 salary. For example, a one-time bonus of, for

15 (Pages 54 to 57)

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1 example, five hundred euros, a thousand euros.
 2 MR. BOSTWICK: Objection, foundation.
 3 A. I remember that there were some of
 4 these, and that these were discussed with
 5 Mr. Igonet in France.
 6 Q. And who is Mr. Igonet?
 7 A. He's the financial director.
 8 Q. Of Ethypharm France?
 9 A. Yes.
 10 Q. And were these bonuses that were -- who
 11 initiated the discussions regarding bonuses?
 12 A. I don't remember.
 13 Q. Did Mr. Igonet make the final decision
 14 as to whether bonuses would be awarded, the
 15 bonuses that you have in mind?
 16 A. In my performance, generally I tried to
 17 allow France to take all the important decisions.
 18 It was not only that I was trying, but it was my
 19 duty.
 20 Q. I'm sorry, your duty was to have France
 21 make those decisions; is that right?

1 Laboratorios Belmac facility, would that be a
 2 problem that you would communicate directly with
 3 France about?
 4 MR. BOSTWICK: Objection. Calls for
 5 speculation.
 6 MR. STEWART: You may answer.
 7 A. Obviously, and there are many letters
 8 of mine in that regard.
 9 Q. And do those letters confirm that you
 10 did -- let me withdraw that.
 11 You recall that there was an audit that
 12 was performed in 1996 of the Belmac facility?
 13 A. There were several, but that, I
 14 remember very well.
 15 Q. And did you -- with respect to the
 16 results of that audit -- well, first, that audit
 17 was conducted by Ethypharm Spain, or was an audit
 18 condition deducted by Ethypharm Spain?
 19 MR. BOSTWICK: Objection, form.
 20 A. No, never. We never did an audit.
 21 When I say "we," I mean Ethypharm Spain.

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1 A. Can we rephrase the question, please?
 2 MR. STEWART: Can I have the last
 3 question back? I think it would be -- if you
 4 would, Mr. De Basilio's answer and then my sort
 5 of capitulation of -- of my understanding of his
 6 answer.
 7 MR. BOSTWICK: I'll object to the
 8 characterization. Or recharacterization of
 9 testimony.
 10 A. My duty was to always keep informed the
 11 main office of Ethypharm France, and when I'm
 12 saying that I will let them take the decisions,
 13 it's because they are the owners of the business
 14 and they have to -- they are the ones who had to
 15 take the decision.
 16 Q. And did you apply that general
 17 principal to the major -- to the major issues
 18 that came before you?
 19 A. Of course.
 20 Q. So, for example, if there was a problem
 21 with good purchasing practices at the

1 Q. The audit was conducted by Ethypharm
 2 France; is that right.
 3 A. That is.
 4 Q. And the difficulties that were
 5 uncovered by that audit were communicated
 6 directly to Ethypharm France; is that right?
 7 A. Can you repeat the question, please?
 8 Or rephrase it?
 9 Q. Right. With respect to an audit that
 10 was conducted in 1996, there were problems that
 11 that audit uncovered; is that correct?
 12 A. Yes. Not only few, many.
 13 Q. And those problems were called to the
 14 attention of people at Ethypharm France; is that
 15 correct?
 16 A. When you said that these were called to
 17 the attention, who do you think called them to
 18 the attention?
 19 Q. Well, the audit -- well, let me ask.
 20 Who did call the problems to the attention of
 21 Ethypharm France?

16 (Pages 58 to 61)

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1 A. The quality control --
 2 THE WITNESS: No, no, quality
 3 assurance.
 4 THE INTERPRETER: The quality assurance
 5 responsible person.
 6 Q. Was that quality assurance person an
 7 employee of Ethypharm France?
 8 A. Exactly. True.
 9 Q. Did you have any responsibility for
 10 negotiating the price which Ethypharm would pay
 11 Laboratorios Belmac for rent?
 12 A. No, that was done jointly with France.
 13 Q. Mr. De Basilio, I would like you now to
 14 continue with your testimony regarding the
 15 employees of Ethypharm Spain, and you told us
 16 that after you were hired, you hired a secretary.
 17 And that was Mr. -- yes?
 18 A. Yes.
 19 Q. And that was Eloy Gonzalez?
 20 A. Yes.
 21 Q. What were Mr. Gonzalez' duties?

1 A. Yes. When I say no as to the budget,
 2 he did it, but under somebody's supervision.
 3 Q. He would prepare the paper.
 4 A. Yes.
 5 Q. And he would be responsible for filing
 6 of documents, filing within the company.
 7 A. Of course.
 8 Q. And for sending out correspondence from
 9 you?
 10 THE WITNESS: Correct.
 11 Q. Would he be responsible for answering
 12 the telephone?
 13 THE WITNESS: Correct.
 14 Q. Did you higher anyone else?
 15 A. Yes, five more people.
 16 Q. And who were they?
 17 A. After that, we hired a secretary that
 18 would only do secretarial tasks.
 19 Q. And what was his or her name?
 20 A. I can't remember exactly. I think it
 21 was Juana Maria.

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1 A. Mr. Debregeas called him the factotum.
 2 THE INTERPRETER: Which I cannot
 3 translate.
 4 THE WITNESS: Do you understand
 5 factotum? The person that does everything, the
 6 same as myself.
 7 THE INTERPRETER: Everything, same as
 8 me.
 9 BY MR. STEWART:
 10 Q. Was Mr. Gonzalez -- well, was he your
 11 assistant?
 12 A. He was everything.
 13 Q. Help me out as to what "everything"
 14 means. Give me some examples of his duties.
 15 A. I can't tell you. If you ask me
 16 specifically, I can tell you, but all, that's
 17 hard.
 18 Q. Well, did he have any responsibility,
 19 for example, for preparing a budget?
 20 A. No.
 21 Q. For making travel arrangements?

1 Q. And she did secretarial tasks such as
 2 typing, answering the telephone, making coffee?
 3 A. And I remember that she also used to do
 4 accounting.
 5 Q. What type of accounting?
 6 A. The general accounting of a Spanish
 7 firm. But this is what a secretary can do. She
 8 wasn't making any decisions.
 9 Q. Would she pay bills?
 10 A. She would make the checks and I would
 11 sign them.
 12 Q. Would she send out bills, send out
 13 invoices?
 14 A. Yes.
 15 Q. Who told her how much to charge?
 16 A. The prices were established in France.
 17 Q. Who else did you hire?
 18 A. After this secretary came another, and
 19 several others, but the names, I can't remember.
 20 Q. In addition to the secretary -- in
 21 addition to secretaries, who else were -- did you

17 (Pages 62 to 65)

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1 hire?
 2 A. After that came Ignacio Alvarez.
 3 Q. What job did Ignacio Alvarez have?
 4 A. He was another factotum.
 5 Q. Meaning that he had a number of
 6 responsibilities, a number of duties?
 7 A. Correct.
 8 Q. At any time, did he assume
 9 responsibility for a particular subject area?
 10 MR. BOSTWICK: Objection, vague.
 11 A. What do you mean, exactly, some --
 12 Q. Well, for example, did Mr. Alvarez
 13 focus a substantial portion of his time on
 14 preparing contracts or involving himself in
 15 issues of price negotiation?
 16 MR. BOSTWICK: Objection, form.
 17 A. That was not his mission. But I
 18 authorized him in some special occasions, having
 19 France's authorization.
 20 Q. That is, would you obtain France's
 21 authorization for him to do those tasks?

1 meeting, and what did Mr. Alvarez do?
 2 MR. BOSTWICK: Objection, compound.
 3 A. In this case, in the meeting, what
 4 Belmac did, the text of this meeting as existing
 5 in the documentation.
 6 Q. You're saying that there is a document
 7 which recites what happened at this meeting? Is
 8 that what you're telling me?
 9 A. It is not explaining, but it's the
 10 actual text of the meeting, which is the
 11 contract.
 12 Q. All right. Well, let's turn to that
 13 document. Just give me a moment, here.
 14 Let's have marked as the first exhibit
 15 a manufacturing agreement dated March 23, 2000.
 16 (Deposition Exhibit No. 1 marked for
 17 identification.)
 18 MR. STEWART: And the second exhibit
 19 will be -- the translation is "letter of purchase
 20 undertaking."
 21 (Deposition Exhibit No. X marked for

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1 MR. BOSTWICK: Objection to form.
 2 A. Can you ask this in another way?
 3 Q. I didn't understand what you said when
 4 you referred to France authorized it.
 5 A. France would authorize me and I would
 6 authorize him.
 7 Q. Is there a specific activity that you
 8 can think of where France authorized Ignacio
 9 Alvarez to take?
 10 MR. BOSTWICK: Objection,
 11 mischaracterization the.
 12 A. I remember one in particular on March
 13 23, 2000.
 14 Q. And what was that?
 15 A. Manufacturing contract.
 16 Q. And what did France authorize
 17 Mr. Alvarez to do?
 18 A. Mr. Alvarez stated that he could get a
 19 good result in a meeting with Mr. Herrera, and he
 20 was authorized to do that.
 21 Q. Explain to me, please, what was the

1 identification.)
 2 THE INTERPRETER: That's a different
 3 one. This is incomplete.
 4 BY MR. STEWART:
 5 Q. The first question that I have -- you
 6 have told me that -- you're referring to Exhibit
 7 1; is that right?
 8 A. I insist this is not complete.
 9 Q. What other documents do we need to make
 10 the document complete?
 11 A. The other contracts for manufacturing
 12 other products that were signed the same date.
 13 MR. STEWART: All right, let's get
 14 those.
 15 MR. BOSTWICK: Do you want to go off
 16 the record for a moment?
 17 MR. STEWART: Why don't we do that.
 18 Sure. Good idea.
 19 THE VIDEOGRAPHER: The time is
 20 12:27:49. Off the record.
 21 (Deposition Exhibit Nos. 3, 4, 5 and 6

18 (Pages 66 to 69)

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1 marked for identification.)
 2 THE VIDEOGRAPHER: On the record, the
 3 time is 12:33:41.
 4 BY MR. STEWART:
 5 Q. Mr. De Basilio, while we were off the
 6 record, we have marked three -- four more
 7 exhibits. And these are --
 8 MR. BOSTWICK: Quatro. The only
 9 Spanish I know are the numbers.
 10 BY MR. STEWART:
 11 Q. Do these manufacturing contracts -- are
 12 these the manufacturing contracts that you had in
 13 mind when you said that Exhibits 1 and 2 were not
 14 complete?
 15 A. Yes, and I can explain to you why I
 16 insisted on that.
 17 Q. Yes. What I would like for you to do
 18 is to explain what Mr. -- what was Mr. Alvarez'
 19 involvement with respect to the document we have
 20 marked as Exhibits 1 through 6, if any.
 21 A. If you notice, these documents are

1 registry ministry.
 2 Q. I don't understand.
 3 A. The way the dossier registration works
 4 in the ministerio --
 5 THE WITNESS: In the agency, the
 6 Spanish agency.
 7 THE INTERPRETER: -- in the Spanish
 8 Agency for Drugs. This morning, I explained to
 9 you how you have to present the document in the
 10 ministry -- in the Spanish Agency for Drugs in
 11 order to have a product approved for
 12 commercialization. And in the same fashion, the
 13 legislation, the sanitary legislation, obliges
 14 you to have a manufacturing contract between the
 15 proprietor of the technology, the know-how, and
 16 the manufacturer.
 17 Q. Let me interrupt for a minute. Would
 18 you repeat your -- what you have just said? I
 19 didn't understand.
 20 A. What, exactly did you not understand?
 21 MR. BOSTWICK: Do you want to have the

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1 different to those documents.
 2 Q. "This documents" meaning Exhibits 4
 3 through 6?
 4 A. Yes.
 5 Q. And they are different from Exhibits 1
 6 and 2.
 7 A. Yes.
 8 Q. I do notice those differences.
 9 MR. BOSTWICK: Perhaps a point of
 10 clarification. I think you said four through
 11 six. Do you mean three through six?
 12 MR. STEWART: Yes, I meant three
 13 through six. Thank you.
 14 BY MR. STEWART:
 15 Q. That's what I meant, yes. Thank you.
 16 And you were going to tell me what
 17 involvement Mr. Ignacio Alvarez had in connection
 18 with these contracts.
 19 A. As you notice, these are different from
 20 these other. The same which as I was explaining
 21 this morning as to how a document works at the

1 court reporter read it?
 2 MR. STEWART: Why don't we have the
 3 court reporter read back the testimony.
 4 (The record was read by the reporter.)
 5 (Discussion off the record.)
 6 MR. STEWART: And, I'm sorry, would you
 7 have that answer just back one more time?
 8 BY MR. STEWART:
 9 Q. Before we continue with my question as
 10 to what role -- oh, you hadn't finished your
 11 answer?
 12 A. It's a small detail that is still
 13 missing.
 14 In the same way, the client at which
 15 the product is aimed needs a copy of this
 16 document. This is what you put in the boxes of
 17 the drugs that you buy in the drugstore and in
 18 the brochures.
 19 Q. The package inserts?
 20 A. The package inserts. Where you explain
 21 who is the manufacturer, who is the owner of the

19 (Pages 70 to 73)

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1 technology, and as I said, these are different.
2 Ignacio Alvarez went to obtain the signature of
3 one of these.

4 Q. Which one?

5 A. Omeprazole.

6 Q. He went to obtain the signature of
7 Exhibit...

8 A. One of the documents like the ones from
9 three to six. But he came back from these two
10 pages, or exhibits one and two.

11 THE WITNESS: You called them exhibits,
12 so let them call them exhibits.

13 A. And these are also manufacturing
14 contracts that you regularly sign with all the
15 clients and all the manufacturers, as I have
16 explained.

17 MR. STEWART: Did you say rarely? What
18 was it?

19 THE INTERPRETER: Ordinarily or
20 regularly.

21 MR. STEWART: Ordinarily.

1 A. Yes.

2 Q. And is that your initial on the third
3 page of Exhibit 1?

4 A. Yes.

5 Q. Now, first, did you have any
6 discussions with Adolfo Herrera with respect to
7 the terms that are listed A through H on Exhibit
8 1?

9 A. Yes.

10 Q. And tell me the discussion -- tell me
11 what discussions you had with Mr. Herrera
12 regarding these terms.

13 A. First of all, I stated that I was in
14 disagreement, because this was a matter of
15 contracts that were normally done on the regular
16 activities, and I didn't agree, the fact that
17 they were being changed.

18 Q. And what did he say to that?

19 A. I can't remember.

20 Q. When did you have this discussion?

21 A. I don't remember. What I do remember

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1 THE WITNESS: Regularly.

2 A. But in this case, Belmac wanted to
3 impose their particular text. In these
4 contracts, it is described what each party is
5 going to do.

6 Q. Are you referring to Exhibit 1?

7 A. Yes. If you notice in the third page
8 of Exhibit 1 --

9 Q. Yes.

10 THE WITNESS: Page three.

11 A. It is referred to the patent and the
12 Ethypharm technology for omeprazole.

13 Q. Have you completed your answer?

14 A. Yes.

15 Q. I have several questions. The first
16 question is, referring to Exhibit 1, is that your
17 signature on page -- and there's a particular
18 date, this particular number, Bel, B-E-L, 000549.

19 A. Yes.

20 Q. Is that your initial on the first page
21 of Exhibit 1?

1 in particular is point number E, which we
2 disagree, and that's why we sign the -- that I
3 was in total disagreement, and that's why we
4 signed the letter of agreement -- letter of
5 purchase, commitment to purchase, which is my
6 exhibit number two. And we signed that the same
7 day.

8 Q. My question is, can you tell me the
9 date on which you had the discussion with
10 Mr. Herrera regarding your disagreement.

11 A. I can't remember, but we signed all the
12 documents on the 23rd. It was probably the same
13 day that we had the discussion.

14 Q. Was your discussion in person or by
15 telephone?

16 A. I'm not totally certain that it was in
17 person. Could have been over the phone.

18 Q. So you don't remember?

19 A. (Witness shakes head.)

20 Q. Was Mr. Alvarez a participant in that
21 discussion?

20 (Pages 74 to 77)

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1 A. Mr. Alvarez went to eat with
2 Mr. Herrera. They went together.
3 Q. On what date?
4 A. Probably it would have been the same
5 day.
6 Q. Are you guessing or do you know?
7 A. I don't know.
8 Q. All right. So my question is, did
9 Mr. Alvarez participate in this discussion that
10 you had with Mr. Herrera?
11 A. As I said, Mr. Alvarez volunteered to
12 go to this meal --
13 THE WITNESS: Lunch.
14 THE INTERPRETER: -- luncheon, in order
15 to obtain one of those documents like the ones
16 Exhibit 3 to 6.
17 His exact words were, "Let it to me,"
18 that "I can arrange it."
19 Q. So Mr. Alvarez went to obtain the
20 contracts that we have marked as Exhibit 3
21 through 6; is that correct?

1 Is that correct?
2 MR. BOSTWICK: I don't think you got an
3 answer from him on that.
4 Q. Is that correct?
5 THE INTERPRETER: I just stated the
6 answer, what he just reiterated. He said it. He
7 implied it in the reply.
8 THE WITNESS: I'm lost now.
9 MR. STEWART: Let me have the reporter
10 read back the question and the answer, and --
11 please.
12 (The record was read by the reporter.)
13 MR. STEWART: So the witness testifies
14 that's correct.
15 MR. BOSTWICK: My mistake.
16 BY MR. STEWART:
17 Q. Is it your testimony that Ignacio
18 Alvarez returned from his meeting with -- his
19 luncheon meeting with Mr. Herrera with Exhibits 3
20 through 6?
21 A. I don't remember, but I don't think

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1 MR. BOSTWICK: Objection,
2 recharacterization.
3 A. He went to get the contract for
4 omeprazole, that it would be the same as 3 to 6,
5 documents 3 to 6. And I must say that we had
6 been discussing this issue for several months.
7 Q. So you sent -- did you send Mr. -- you
8 agree that Mr. Alvarez could go and obtain the
9 contracts for -- that have been marked as Exhibit
10 3 through 6 and the contracts for omeprazole that
11 we have marked as Exhibits 1 and 2; is that
12 right?
13 MR. BOSTWICK: Objection.
14 Mischaracterization.
15 A. No. No.
16 Q. Tell me why that's not correct.
17 A. These contracts are the regular
18 contracts that are used for any manufacturing
19 contract, and were provided by France. The ones
20 that are 3 through 6.
21 Q. And those are the 3 through 6, right?

1 that that is the important thing that Mr. Alvarez
2 went to do at that luncheon. I do know that that
3 wasn't the important issue. The important issue
4 was this.
5 Q. By "this," mean Exhibits 1 and 2.
6 A. Yes.
7 Q. We will get along faster if you answer
8 my question, okay? So my question is --
9 MR. BOSTWICK: Objection,
10 argumentative.
11 BY MR. STEWART:
12 Q. My question is, did Mr. Alvarez return
13 from his luncheon with Mr. Herrera with Exhibits
14 3 through 6?
15 A. I can't remember.
16 Q. Did you sign Exhibit 3 through 6 before
17 Mr. Herrera signed Exhibits 3 through 6?
18 A. I can't remember.
19 Q. Did you sign after Mr. Herrera signed
20 Exhibits 3 through 6?
21 A. I can't remember.

21 (Pages 78 to 81)

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1 Q. Can we agree that it is Mr. Herrera's
2 signature that appears on Exhibits 3 through 6?
3 A. Yes.
4 Q. Did Mr. Alvarez come see you with
5 the -- let me withdraw that.
6 Explain to me how -- your best
7 recollection as to how Exhibits 3 through 6 came
8 to be signed.
9 A. I authorized Ignacio Alvarez to attend
10 that luncheon with the sole purpose to obtain a
11 manufacturing contract for omeprazole, and he
12 came back from the luncheon with this proposal,
13 which is different what we wanted to sign.
14 Q. You said he came back with a proposal.
15 Do you mean he came back with Exhibits 1 and 2?
16 A. First of all, to the one.
17 THE WITNESS: Exhibit 1.
18 THE INTERPRETER: Exhibit 1.
19 Q. He came back with Exhibit 1; is that
20 what your testimony is?
21 A. Yes.

1 me withdraw that.
2 Referring now to Exhibit 1, is it your
3 testimony that Mr. Ignacio Alvarez came back to
4 you after he had lunch with Mr. Herrera with a
5 copy of what is now Exhibit 1?
6 A. That is what I vaguely remember
7 happening.
8 Q. And was the Exhibit 1 signed by both
9 you and Mr. Herrera when you got the document
10 back?
11 MR. BOSTWICK: Objection, vague.
12 MR. STEWART: Let me try it again.
13 I'll withdraw the question.
14 Q. When Mr. Alvarez came back to you with
15 the document we have marked as Exhibit 1, did the
16 signature of -- was the signature of Mr. Alvarez
17 on that document?
18 MR. BOSTWICK: Objection. Asked and
19 answered.
20 A. I already answered that.
21 Q. And the answer is?

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1 Q. And was that document signed by
2 Mr. Alvarez? I'm sorry, I misspoke. Was Exhibit
3 1, when he came back, was that signed by
4 Mr. Herrera?
5 A. I can't remember. I can't remember who
6 signed first.
7 Q. So you may have signed Exhibit 1 and
8 gave it to Mr. Alvarez to give to Mr. Herrera; is
9 that right?
10 A. No. That, I am sure I did not, because
11 I didn't like that document, and that possibility
12 is --
13 THE WITNESS: Very unreasonable.
14 THE INTERPRETER: -- very unreasonable.
15 Q. So tell me, did Mr. Alvarez, when you
16 sent him to lunch with Mr. Herrera, have any
17 document with him?
18 A. That detail, I do not remember. I can
19 tell you what I do remember, but those details, I
20 do not remember.
21 Q. All right. And do you remember -- let

1 A. That I don't remember.
2 Q. And was your signature on that
3 document?
4 A. I don't remember that, either, but it
5 would be highly improbable that I signed that
6 document first.
7 Q. Why?
8 A. Because I disagree with item number E.
9 Q. Tell me, then, when did you sign the
10 document? When did you sign Exhibit 1?
11 A. When I was certain that what was stated
12 in item number E was being nullified.
13 Q. And when were you certain of that?
14 A. When I had both documents in front of
15 me.
16 Q. Let's take a look at Exhibit 2.
17 Before we talk about Exhibit 2, is it
18 your testimony that Mr. Alvarez returned after
19 the lunch with Mr. Herrera only with Exhibit 1?
20 A. That is according to my remembrance.
21 Q. Who made Exhibit 2?

22 (Pages 82 to 85)

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1 MR. BOSTWICK: I will object for
2 vagueness.
3 A. I don't remember.
4 Q. I see that Exhibit 2 is on the -- has
5 the letterhead of Ethypharm.
6 A. I can imagine that that's what
7 happened.
8 Q. That is, you can imagine that Ethypharm
9 drafted Exhibit 2?
10 A. Most assuredly, in not accepting the
11 item E, I must have elaborated this.
12 Q. You must have elaborated this?
13 A. Yes.
14 Q. And by "this," you mean Exhibit 2?
15 A. But that is a conclusion that I arrive
16 at looking at my logo. It's present on the
17 letterhead.
18 (Discussion off the record.)
19 BY MR. STEWART:
20 Q. Mr. De Basilio, look at Exhibit 2, and
21 on the first page, there is a date. Do you see

1 it's established there.
2 So therefore, in the item number E
3 states each contract would not limit the
4 fabrication of a product by Belmac for its own
5 market and that of its clients.
6 So we could not leave open the
7 possibility that Belmac was going to produce with
8 our technology its own desire with no
9 limitations. So therefore, in the compromise
10 letter --
11 Q. When you say compromise letter, what is
12 the translation?
13 THE INTERPRETER: Commitment letter.
14 MR. STEWART: Commitment. Okay. We
15 have to be careful in how we translate. The
16 commitment letter. The purchase commitment; is
17 that right? I'm sorry.
18 THE INTERPRETER: Yeah, the purchase
19 commitment.
20 MR. STEWART: Let me have it from the
21 witness.

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1 it?
2 A. Yes.
3 Q. And can you tell me in whose
4 handwriting that date appears?
5 A. It's mine.
6 Q. And can you tell me whether this
7 Exhibit 2 was prepared on the same day --
8 sorry -- let me withdraw that. When was exhibit
9 2 prepared, drafted -- let me withdrawn it again.
10 When was Exhibit 2 drafted?
11 A. I can't remember.
12 Q. Explain to me why you believe that
13 Exhibit 2 nullifies the language that you don't
14 like in paragraph E in Exhibit 1.
15 A. These contracts are manufacturing
16 contracts. They are -- you request from third
17 parties in which you deliver the technology and
18 the know-how for the manufacturing to the
19 manufacturer. In fact, in the annex appears the
20 patent of Ethypharm for omeprazole, and it's a
21 contract that is only valid in the period which

1 Q. Would you please read the title of
2 Exhibit 2?
3 A. Purchase Commitment Letter.
4 MR. STEWART: Thank you.
5 MR. BOSTWICK: And, of course, no one
6 is necessarily agreeing or disagreeing to the
7 exact translation. It says what it says in
8 Spanish, and we can fight over that later if we
9 desire, correct?
10 MR. STEWART: Well, I'll let the
11 witness' testimony stand, and this translator has
12 translated as he believes and as he is sworn to
13 translate.
14 THE INTERPRETER: I actually stand
15 corrected. I can tell you exactly the difference
16 between "compromise" and "commitment." It was a
17 quick mistranslation. I stand corrected.
18 Q. Please continue.
19 MR. BOSTWICK: My comment stands.
20 A. So in this letter of purchase
21 commitment, Belmac is committed to buy

23 (Pages 86 to 89)

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1 exclusively from Ethypharm its needs and those of
2 their clients whenever and if Ethypharm would
3 guarantee the supply in the way that it had and
4 in the time that had been established in the
5 purchase orders and to the prices that are
6 competitive in the market and the manufacturing
7 the product, omeprazole microgranules as done by
8 Belmac in their installations.

9 Q. Just two more questions, and then we
10 will break.

11 A. And I must add something else here.

12 Q. Why don't you add something else. Go
13 ahead.

14 A. I asked France for authorization, you
15 know, to sign these letters.

16 Q. And France gave you that authorization?

17 A. They complained a lot, but since they
18 were necessary for us to supply our clients, it
19 wasn't that important, so we signed.

20 Q. So we're clear, Ethypharm France
21 authorized you to sign Exhibit 1, correct?

1 disagree with; is that correct?

2 A. Could have occasions in other parts,
3 but in principle, what we were concerned with was
4 this item number E.

5 Q. But it is Exhibit 2 and the language
6 which I have just read that you understand to
7 have nullified the language in Exhibit E -- the
8 language in paragraph E of Exhibit 1.

9 A. The first part of paragraph E that we
10 haven't read is also nullified with this text.

11 MR. STEWART: Why don't we take a
12 break.

13 THE VIDEOGRAPHER: The time is
14 13:23:02. Off the record.

15 (Lunch recess.)

16 THE VIDEOGRAPHER: On the record. The
17 time is 14:28:54.

18 BY MR. STEWART:

19 Q. Good afternoon, Mr. De Basilio.

20 A. Good afternoon.

21 Q. I would like you to turn to Exhibit 1,

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1 A. Yes, correct.

2 Q. And Ethypharm France authorized you to
3 sign Exhibit 2; is that correct?

4 A. Correct.

5 MR. STEWART: This is the last one
6 before the break.

7 Q. I'm going to read to you a translation
8 of paragraph 1 of Exhibit 2.

9 "Belmac undertakes to exclusively
10 purchase its own needs and that of its clients
11 from Ethypharm on the proviso that Ethypharm
12 guarantees that said supply will occur in the
13 time and manner established in purchase orders
14 and at competitive market prices and that the
15 manufacturer of the product (microgranules of
16 omeprazole) will be performed by Belmac in its
17 own installations."

18 Have I read that correctly?

19 A. Yes.

20 Q. And it is Exhibit 2 that you believe to
21 nullify the language in Exhibit E that you

1 and the second page of the document.

2 Now, in this morning's testimony you
3 told us that you disagreed with the -- a portion
4 of the last sentence in paragraph E. Would you
5 please read that last sentence?

6 MR. BOSTWICK: To himself, or --

7 MR. STEWART: No, out loud, please.

8 MR. BOSTWICK: In Spanish?

9 Q. In Spanish, yes. In Spanish, and then
10 I would like our translator to translate that.

11 A. "This contract would not limit the
12 manufacturing of a product on the part of Belmac
13 for its own market and that of their clients."

14 Q. Now, was there -- were there other
15 parts of Exhibit 1 that you disagreed with?

16 A. This morning I had answered that I did
17 not remember.

18 Q. As you look at the document today, is
19 your memory refreshed?

20 A. You want me to read it?

21 Q. Yes, please.

24 (Pages 90 to 93)

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1 A. Should I read page three, too?
 2 Q. Yes.
 3 And your answer?
 4 A. I'm not as expert in these matters, but
 5 think the other parts are not related.
 6 Q. So as you sit here today, is it fair to
 7 say that the only part of Exhibit 1 that you
 8 presently recollect you disagreed with was the
 9 last sentence in paragraph E?
 10 A. Yes, making the observation that as I
 11 said this morning, what I wanted to have signed
 12 was a contract similar to those in Exhibits 3 to
 13 6.
 14 Q. But for the reasons that you have
 15 stated earlier, you nonetheless signed Exhibit 1,
 16 correct?
 17 THE WITNESS: Correct.
 18 A. Correct.
 19 Q. When Ignacio Alvarez went to the
 20 meeting with Adolfo Herrera that you told us
 21 about and came back to you with Exhibits 1 and 2,

1 wasn't -- that I didn't remember those details.
 2 I can imagine that he came back with some notes,
 3 or pain with the document.
 4 Q. You say that you --
 5 A. The document that was provided by
 6 Belmac.
 7 Q. Did you say that you can -- that you
 8 believe he came back with the document?
 9 A. It could be.
 10 Q. Did you have a conversation with Adolfo
 11 Herrera regarding the language that you objected
 12 to in Exhibit -- in paragraph E of the
 13 manufacturing agreement, Exhibit 1?
 14 MR. BOSTWICK: Objection, asked and
 15 answered.
 16 A. Evidently, I have probably told Ignacio
 17 Alvarez to go and negotiate an agreement at this
 18 specific point, and that he came back with the
 19 document and then I told him to go back and
 20 renegotiate it, or maybe I renegotiated it with
 21 Belmac or with Mr. Loferrera (phonetic), but it's

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1 as well as Exhibits 3 through 6 --
 2 A. I did not say that.
 3 Q. Please correct me.
 4 A. The purpose of that meeting was to
 5 obtain a document that was similar to documents 3
 6 to 6, and he failed.
 7 Q. So are you telling us that you sent
 8 Ignacio Alvarez to meet with Adolfo Herrera to
 9 negotiate the -- to negotiate Exhibits 1 and 2?
 10 A. What I have said this morning is that I
 11 authorized Ignacio Alvarez to go and try to
 12 obtain a contract, and he, himself, offered for
 13 that.
 14 Q. In what sense, though -- what was --
 15 A. And the result of that was that he came
 16 back with a proposal that is shown as Exhibit
 17 number 1. But I am not saying that it was
 18 exactly at that moment.
 19 Q. That is, he did not come back,
 20 necessarily, with Exhibit 1?
 21 A. I have said this morning that I

1 been so long that these type of details, I cannot
 2 remember.
 3 MR. BOSTWICK: Craig, may I make a
 4 suggestion to the witness?
 5 MR. STEWART: Sure.
 6 MR. BOSTWICK: Craig told you at the
 7 beginning to try give shorter sentences so the --
 8 so that the translator would have an opportunity
 9 to make an accurate translation. So if you have
 10 a longer answer, that's fine, but if you would
 11 break it into shorter blocks so that we're sure
 12 we're hearing everything you're saying.
 13 Do you understand?
 14 THE INTERPRETER: What happens is that
 15 you are -- I understand that need to make sure of
 16 the answers, but you are asking about details
 17 that he had already said that he didn't remember,
 18 and you -- in your attempt to clarify it and
 19 insist on the details, even though I had an
 20 excellent salad, it's almost impossible that I
 21 can remember.

25 (Pages 94 to 97)

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1 MR. BOSTWICK: Smaller sentences is the
2 point. Shorter sentences for the translator is
3 the point.

4 BY MR. STEWART:

5 Q. Okay. Tell me, please, in as much
6 detail as you can remember, any conversations you
7 had with anyone at Ethypharm -- Ethypharm
8 France -- concerning your disagreement with
9 Exhibit -- with the last sentence in paragraph E
10 of Exhibit 1.

11 MR. BOSTWICK: And I will interpose an
12 instruction, which is, please do not include
13 legal discussions that you had with Roseline
14 Joanesse, if any.

15 Q. To that point, I would ask that I
16 don't -- I am not entitled to know the substance
17 of that conversation, but I would like to know
18 whether -- just the fact of whether you had a
19 conversation with Ms. Joanesse.

20 A. I totally agree. And there was another
21 person.

1 2.

2 A. I refer to page number two, Exhibit
3 number 2.

4 Q. Did you talk to anyone else at
5 Ethypharm, either Ethypharm Spain or Ethypharm
6 France?

7 A. On one of the occasions that I spoke
8 Mr. Germain, Mr. Philippe Boudal and Yves Liorzou
9 were present.

10 Q. Who was Mr. Boudal?

11 A. The chief of --

12 THE WITNESS: Plant manager.

13 THE INTERPRETER: -- floor manager.

14 Q. Plant manager? Was that plant manager?

15 A. Yes.

16 Q. And Mr. Liorzou?

17 A. Mr. Liorzou.

18 Q. Who was he?

19 A. Trade director.

20 Q. Of Ethypharm France?

21 A. Yes, Ethypharm France.

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1 Q. I'm sorry, what did you totally agree
2 with?

3 A. That I talked to Roseline Joanesse.

4 Q. Was this after you signed the document,
5 or before?

6 A. Logically, before.

7 Q. Okay. And who else did you talk to?

8 A. With Mr. Pierre Germain.

9 Q. And who was present when you talked to
10 Mr. Germain, if anyone?

11 A. We talked to on several occasions with
12 Mr. Germain, and in one of those, he agreed in
13 signing these documents, because the most
14 important thing on this issue was the commercial
15 agreement that related from this.

16 Q. The commercial agreement was --

17 A. Exhibit number 2. In the second page,
18 we have negotiated prices for the jobs that we
19 were charging to Belmac.

20 Q. You're referring now to --

21 THE WITNESS: Page number two, Exhibit

1 Q. Was there anything else that you recall
2 that Mr. Germain said with respect to the
3 manufacturing agreement which we have identified
4 as Exhibit 1?

5 A. Yes, something very graphic. He made
6 very happy gestures about the signing of this
7 trade agreement.

8 Q. What was your understanding as to why
9 Mr. Germain was so happy?

10 A. The business of omeprazole was growing
11 more and more.

12 Q. And is it fair to say that Ethypharm
13 had a customer for omeprazole for at least two
14 years?

15 A. It seemed like that, yes. But not only
16 one client; there were several others.

17 . I can say more about why he was so
18 happy. He asked how many lots -- batches were
19 being sold, and he did the arithmetic on the
20 sheet and he saw that there were many.

21 Q. Being sold to Belmac? Being sold to

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1 Laboratorios Belmac?
 2 A. An important part of it.
 3 Q. Have you now told us everything that
 4 you can recall that Mr. Germain said with respect
 5 to the manufacturing agreement and the purchase
 6 letter undertaking?
 7 A. Yes, what I remember is that.
 8 Q. Did you speak with anyone other than
 9 Adolfo Herrera at Laboratorios Belmac with
 10 respect to the manufacturing agreement, Exhibit
 11 1?
 12 A. No. This is a contract of
 13 manufacturing by a third party, and the person
 14 who signs this is generally the technical
 15 director or the director for manufacturing. It
 16 is a local contractor.
 17 Q. Did you speak to Jim Murphy with
 18 respect to Exhibit 1 or Exhibit 2?
 19 A. No, but I understand that Adolfo
 20 Herrera spoke with Jim Murphy on this delicate
 21 subject.

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1 Q. And were do you have that understanding
 2 from?
 3 A. The conversations between Mr. Herrera
 4 and Mr. Murphy were continuous, and this was
 5 something that most probably was spoken to with
 6 him.
 7 Q. Did Mr. Herrera tell you that he had
 8 talked to Jim Murphy regarding the manufacturing
 9 agreement or the purchase letter agreement?
 10 A. I don't remember in this moment in
 11 particular, but I assume so, because I was in
 12 constant communication with him.
 13 Q. With who?
 14 A. Mr. Murphy.
 15 THE WITNESS: He was in contact.
 16 THE INTERPRETER: Mr. Herrera was in
 17 contact with Mr. Murphy.
 18 Q. You were not in constant communication
 19 with Mr. Murphy, were you?
 20 A. At that moment, no.
 21 Q. And you did not have a conversation

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1 with Mr. Murphy regarding Exhibit 1 or Exhibit 2,
 2 did you?
 3 A. No, because this is an issue that is
 4 solved locally. It's a local manufacturing
 5 agreement that has to be signed by the people
 6 involved at the local level.
 7 Q. Now, you disagreed strongly with the
 8 last sentence in Exhibit -- last sentence in
 9 paragraph E of the manufacturing agreement,
 10 correct?
 11 MR. BOSTWICK: Objection,
 12 mischaracterization.
 13 A. As I said repeatedly, not only with
 14 that paragraph, but the contract as a whole.
 15 Q. Tell me why you didn't call Jim Murphy
 16 to complain that Adolfo Herrera was being
 17 unreasonable.
 18 A. Mr. Murphy was in contact with the main
 19 office to deal with these issues, and at this
 20 point I do not remember having talked with him
 21 about this. Almost certainly I didn't talk to

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1 Mr. Murphy, but this is a case that was dealt
 2 with with France.
 3 Q. Are you telling me that someone at
 4 Ethypharm France talked to Mr. Murphy about
 5 Exhibit 1, the manufacturing agreement?
 6 A. Yes, because there were meetings
 7 previous to the meeting and meeting afterwards.
 8 And there were remarks about the lack of
 9 signatures of these contracts that are necessary
 10 for the commercial work.
 11 Q. There is no -- the Exhibit 1 has two
 12 signatures on it, does it not?
 13 A. Yes.
 14 Q. Yours and Adolfo Herrera's, correct?
 15 A. Yeah. That's what's necessary.
 16 Q. Right. So I want you to tell me any
 17 person at Ethypharm France who spoke to Jim
 18 Murphy regarding Ethypharm's disagreement with
 19 the contract that was signed by you and Adolfo
 20 Herrera on March 23, 2000.
 21 A. Specifically, Mr. LeDuc, in a meeting

27 (Pages 102 to 105)

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1 in Paris.

2 Q. What was the date of that meeting?

3 A. Some months later. It was a
4 certificate that Mr. LeDuc asked Mr. Murphy to
5 sign, and he agreed to sign it, because we had
6 years trying to reach a contract, a big contract,
7 and the only thing that we were getting were
8 different agreements, among which they all
9 recognized that they would use our technology,
10 our product, and we were asking them to respect
11 the GMP norms, as we saw this morning.

12 Q. Well, you didn't answer my question,
13 but we have to go off.

14 THE VIDEOGRAPHER: This ends tape
15 number two of the De Basilio deposition. The
16 time is 15:03:47. Off the record.

17 (The record was read by the reporter.)

18 THE VIDEOGRAPHER: On the record with
19 tape number three of the testimony of Adolfo De
20 Basilio in the matter of Ethypharm versus Bentley
21 Pharmaceuticals. The date is August 2nd, 2006.

1 originally.

2 BY MR. STEWART:

3 Q. Are you telling us that Gerard LeDuc
4 had a discussion with Jim Murphy regarding the
5 manufacturing agreement that we have marked as
6 Exhibit 1 before you signed it?

7 A. Exhibit number one?

8 Q. Yes. Sir, the answer is?

9 A. What -- the answer is that what Mr.
10 LeDuc had discussed is the need for the signature
11 for all the manufacturing contracts of
12 omeprazole, including omeprazole.

13 Q. What I was -- I didn't ask you about
14 all of the contracts, I asked you specifically
15 about Exhibit 1. That was my intention.

16 A. The result of the several discussions
17 in order to obtain the signature of these
18 contracts ended in the signature of this contract
19 that was not acceptable.

20 Later, once it was signed, it came back
21 to the same issue that we continue to -- not to

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1 The time is 15:06:36.

2 BY MR. STEWART:

3 Q. Mr. De Basilio, before the tape change,
4 I had asked you a question as to when this --
5 when Mr. LeDuc or when Mr. LeDuc had spoken to
6 Jim Murphy regarding the manufacturing agreement
7 that you and Mr. Herrera signed on March 23,
8 2000, and you replied that it was some months
9 later. Is that your testimony?

10 A. It's not exactly. The exact question
11 is if he had talked to him about this specific
12 contract. I didn't say two months, I said "only
13 months." The question was if he had spoken with
14 him, and he said that he spoke with him before
15 and after this problem.

16 MR. BOSTWICK: Can I just, before we go
17 on, I need to interpose a transcription
18 objection.

19 Right before the break, I thought the
20 translator said "would not," and the translation
21 said "would," but we can hear it on the tape

1 have a contract about our relationship.

2 Q. Let me ask you the question. To your
3 knowledge, did Mr. LeDuc see Exhibit 1 at or
4 around March 23 of 2000?

5 A. Yes.

6 Q. And if Mr. LeDuc denied ever seeing
7 that document, then he would be mistaken; is that
8 your position?

9 A. Yes, because I don't know if I can talk
10 about Roseline Joanesse.

11 MR. BOSTWICK: No.

12 Q. Not the substance, but...

13 A. I would need to to explain the answer.

14 Q. Well, let me try it.

15 Was there a meeting with Mr. Herrera,
16 yourself and other people from Ethypharm and from
17 Belmac at which Exhibit 1 was mentioned?

18 A. Which Ethypharm?

19 Q. Ethypharm Spain -- Ethypharm France.

20 A. The document was discussed with Adolfo
21 Herrera and with Ignacio Alvarez of Ethypharm

28 (Pages 106 to 109)

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1 Spain, but I do not remember having discussed it
2 with anybody in France.

3 THE WITNESS: No.

4 THE INTERPRETER: Oh, that I don't
5 remember that Mr. Herrera had discussed it with
6 anybody in France.

7 Q. Was there a time that Ms. Joanesse was
8 present at a meeting with Mr. LeDuc where Exhibit
9 1 was discussed?

10 MR. BOSTWICK: And you should just
11 answer that yes or no. He's not asking for the
12 substance of that discussion.

13 A. I could not know that. It was in
14 France. But I imagine, yes.

15 Q. The meeting that Mr. LeDuc had with Jim
16 Murphy occurred several months after you signed
17 Exhibit 1 with Mr. Herrera; is that correct?

18 A. That's what I have said, before and
19 after.

20 Q. And the meeting with -- the meeting
21 before the contract, Exhibit 1, was signed, did

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1 Q. Now, in your testimony earlier, you
2 told us that Exhibit 1 is the type of contract
3 that is submitted to the Spanish drug agency in
4 order to obtain authorization.

5 A. No. This is a requirement you have to
6 sign in order to abide by the legislation. And
7 the ones concerned is the client and the
8 manufacturer.

9 Q. Just so I understand the situation in
10 March of 2000, look at the first page of Exhibit
11 1, and paragraph one, under the title "Recitals."
12 And I'm going to read my English translation of
13 paragraph one.

14 "Belmac is registered in the medicine
15 Spanish agency with the number 3.150-E to
16 manufacture and commercialize pharmaceutical
17 products." Is that an accurate translation, in
18 your judgment, as to what is said?

19 A. What the translator thinks, I would say
20 I agree. And me, too.

21 Q. And is that a true statement?

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1 that meeting specifically concern a draft of
2 Exhibit 1?

3 A. No, this was produced that day and in
4 and around that day. The intentionality for
5 signature of the contracts that were being
6 considered were the documents like the documents
7 in Exhibits 3 to 6.

8 Q. Now, you told us about a communication
9 that you had with Mr. Germain concerning Exhibit
10 1. Do you recall that testimony?

11 A. Yes.

12 Q. And forgive me if I have asked you
13 this, but I don't quite remember. Was that
14 communication in a meeting with Mr. Germain?

15 A. I have told you that it was either by
16 phone or an e-mail, and later in a meeting face
17 to face in Madrid.

18 Q. And tell me, please, when those
19 communications took place, the approximate dates.

20 MR. BOSTWICK: Objection, ambiguous.

21 A. Around the 23rd.

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1 A. I hope so.

2 Q. When did Laboratorios Belmac receive
3 authorization from the Spanish drug agency to
4 manufacture and commercialize omeprazole?

5 MR. BOSTWICK: Objection. That's not
6 what it says.

7 A. Do you understand what the meaning of
8 this?

9 Q. Perhaps I do not.

10 A. Do you want me to explain it to you?

11 Q. Yes, please.

12 A. This means that Belmac is registered in
13 the sanitary ministry, or Spanish Agency for
14 Drugs, and could manufacture according to the
15 1992 Spanish law that is mentioned in paragraph
16 number three.

17 By the way, in order to make this
18 manufacturing agreement, we gave him all the
19 necessary documentation that they needed to
20 obtain the authorization.

21 There is a signed document from

29 (Pages 110 to 113)

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1 November of many years ago which states that they
2 have received all the necessary documentation for
3 the manufacturing of the drug.

4 Belmac was a laboratory with little
5 experience. At that time, it was called
6 Gremapharm, and when it was bought by Belmac
7 Corporation, Belmac United States, we provided
8 all the documentation so that they could obtain
9 this authorization.

10 It would be interesting to see that
11 document, because it could be important.

12 Q. I would be happy to -- we would be
13 happy to show you that; I have in mind showing
14 you that, but what I -- but what I want to know
15 simply is whether Belmac, through the material
16 that Ethypharm provided, obtained authorization
17 to manufacture and commercialize omeprazole.

18 A. That is not exactly. One thing is
19 registering omeprazole and the other is the
20 authorization to manufacture any product.

21 Q. The other to commercialize, or

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1 Q. Now, Ethypharm did not have a
2 manufacturing facility in Spain; is that correct?

3 A. Correct.

4 Q. Is that the reason or the main reason
5 why Ethypharm did not itself become a holder?

6 A. I'm afraid that you are confusing. I
7 need to explain to you a little before that.

8 Q. Please.

9 A. The holder of the commercialization
10 authorization, we are clear that this was Belmac.

11 Q. Yes.

12 A. Ethypharm does not want to
13 commercialize products, because we don't want to
14 enter in competition with our own clients. So we
15 are the holders of 1200 registers.

16 Q. 1200 registered --

17 THE WITNESS: Products.

18 THE INTERPRETER: Registered products.
19 But our clients are the ones who commercialize
20 them.

21 Q. Okay.

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1 manufacture?

2 A. In the pharmaceutical industry, there
3 are several options. You can be the holder of an
4 authorization, you can be a storage facility or
5 storage holder, you could be a commercialization
6 agent or you can be a manufacturer. And I don't
7 know if I neglect any other possibility.

8 What Belmac obtained with our
9 documentation was the possibility of
10 manufacturing. And, by the other hand, we gave
11 them the necessary documentation so that they
12 could be the holders of omeprazole.

13 Q. What does "holders" mean?

14 A. The registering documentation, as I
15 explained this morning, is submitted to the
16 sanitary ministry with the name of the laboratory
17 that is to commercialize it. And once he obtains
18 the authorization, he becomes the holder.

19 Q. And Belmac became -- as you describe,
20 Belmac became a holder; is that correct?

21 A. Correct.

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1 A. And coming back to the initial
2 question, Ethypharm did not have a plant in
3 Spain, but that wasn't the important -- or the
4 main reason.

5 The most important reason was that
6 omeprazole was patented in France and we could
7 not manufacture it in the facilities of Ethypharm
8 France. So we went to Spain with all of our
9 know-how and documentation. And I, myself, built
10 the facility of Belmac.

11 MR. BOSTWICK: Just a comment. A lot
12 of this in the last ten minutes or so is, I think
13 clearly, phase two material. It arose because
14 you were talking about the contract, which is a
15 phase one issue, but I would ask that we move
16 away from the specifics of know-how and
17 registration and issues that are more
18 appropriately addressed in phase two.

19 MR. STEWART: This is background to a
20 follow-up question which I'm going to ask, but --

21 A. I believe that you're right in asking.

30 (Pages 114 to 117)

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1 THE WITNESS: Sorry.
 2 MR. STEWART: I understand the --
 3 A. It is very complicated, the issue of
 4 registry.
 5 MR. STEWART: I think you will find
 6 that I'm not going to get into detail with
 7 respect to some of these points, notwithstanding
 8 that Mr. De Basilio is kind enough to give me the
 9 explanation.
 10 MR. BOSTWICK: And disagrees with his
 11 attorney.
 12 MR. STEWART: And disagrees with his
 13 attorney. Which is always a good idea.
 14 THE WITNESS: Sorry.
 15 BY MR. STEWART:
 16 Q. So that I understand, why was Ethypharm
 17 France unable to manufacture omeprazole in France
 18 if?
 19 A. Not that they couldn't do it, but the
 20 issue was that there was a patent and they cannot
 21 violate that patent.

1 Q. That it is owned by an American
 2 company.
 3 A. Yes.
 4 Q. And can we agree that -- let me
 5 withdraw that.
 6 Can we agree that Laboratorios Belmac
 7 was owned by a company called Belmac Corporation?
 8 A. Yes.
 9 Q. And that Belmac Corporation changed its
 10 name to Bentley Pharmaceuticals, Incorporated?
 11 A. At that time, I was in constant
 12 communication with Mr. Murphy.
 13 Q. Now, to your knowledge, Bentley
 14 Pharmaceuticals, Incorporated, never had a
 15 manufacturing facility in Spain, correct?
 16 MR. BOSTWICK: Objection to form.
 17 A. I don't understand the question.
 18 BY MR. STEWART:
 19 Q. We know that Laboratorios Belmac had a
 20 manufacturing facility in Saragosa, correct?
 21 A. Yes.

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1 Q. So that Ethypharm needed a
 2 manufacturing facility in Spain in order to
 3 manufacture omeprazole; is that correct?
 4 A. Correct.
 5 Q. And am I correct that Laboratorios
 6 Belmac had to receive authorization from the
 7 Spanish drug agency in order to manufacture
 8 omeprazole with Ethypharm's equipment and
 9 technology?
 10 A. Of course. That's the law.
 11 Q. And Laboratorios Belmac received that
 12 authorization; is that correct?
 13 A. True.
 14 Q. And it was important that Belmac
 15 receive that authorization in order for Ethypharm
 16 to have a supply of omeprazole; is that correct?
 17 A. Of course. That's obvious.
 18 Q. Okay. Now, you are aware -- you
 19 obviously are aware that Laboratorios Belmac is a
 20 subsidiary of an American company, correct?
 21 A. What do you mean, subsidiary?

1 Q. And Laboratorios Belmac had the
 2 authorization from the Spanish drug agency,
 3 correct?
 4 A. Like any other laboratory.
 5 Q. Bentley Pharmaceuticals, the parent
 6 company, never received any authorization from
 7 the Spanish drug agency to manufacture
 8 pharmaceutical products; is that correct?
 9 A. I cannot know that.
 10 Q. Have you ever heard that Bentley, the
 11 parent company, was authorized to manufacture
 12 pharmaceuticals in Spain?
 13 A. I saw in a book the other day something
 14 that said Bentley API, and -- and that probably
 15 means that they have a factory in Spain.
 16 Q. Could Ethypharm France manufacture
 17 omeprazole in Spain?
 18 A. They do not have a plant in Spain.
 19 They cannot.
 20 Q. And unless Ethypharm France had a plant
 21 in Spain, they can't manufacture.

31 (Pages 118 to 121)

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1 A. I don't know where you want to go with
 2 this, but basically, no.
 3 Q. Of your own knowledge, does Bentley
 4 Pharmaceuticals, Incorporated, have authorization
 5 to manufacture pharmaceutical products in Spain?
 6 A. In this moment, it could be, but in the
 7 past, it's unlikely, because Mr. Murphy had just
 8 a small office for his dealings in the United
 9 States.
 10 Q. And I am referring -- I am referring to
 11 the time period from 1991 to 2003.
 12 A. Exactly what's the question on this
 13 period?
 14 Q. The question is whether, during this
 15 period, to your knowledge, did Bentley
 16 Pharmaceuticals have authorization to manufacture
 17 pharmaceutical products in Spain?
 18 A. At the beginning, most likely not, but
 19 I cannot be certain, and at the end, I don't
 20 know, because I wasn't there anymore.
 21 Q. And during that same time period, let's

1 let me ask the question.
 2 To your knowledge, did Ethypharm ever
 3 submit Exhibit 1 to the Spanish drug agency?
 4 A. The same answer. It is not necessary.
 5 Q. And if you would turn to Exhibit 1. As
 6 soon as I find my copy, I'll ask the question.
 7 The document is not signed by Bentley
 8 Pharmaceuticals, Incorporated, correct?
 9 A. No, it's normal that they are not to
 10 sign it.
 11 Q. Did you give any attention to whether
 12 Bentley Pharmaceuticals, Incorporated, should
 13 have been included as a signatory?
 14 A. This is not a contract, strictly
 15 speaking.
 16 Q. What do you mean, it's not a contract,
 17 strictly speaking?
 18 A. Ethypharm would submit this to
 19 Mr. Murphy as a contract in between the two
 20 companies that are involved. This is not the
 21 contract that I would present to Mr. Murphy. The

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1 say from 1991 to July of 2003, did Bentley
 2 Pharmaceuticals have authorization from the
 3 Spanish drug agency to commercialize
 4 pharmaceutical products?
 5 A. Not to my knowledge. I do not know.
 6 MR. BOSTWICK: Is this an appropriate
 7 time to maybe take five minutes?
 8 MR. STEWART: It is.
 9 THE VIDEOGRAPHER: The time is
 10 15:45:59. Off the record.
 11 (Brief recess.)
 12 THE VIDEOGRAPHER: On the record. The
 13 time is 1600 hours, 58 seconds.
 14 BY MR. STEWART:
 15 Q. Mr. De Basilio, did -- to your
 16 knowledge, did Laboratorios Belmac ever submit to
 17 the Spanish Drug and Health Products Agency
 18 Exhibit 1 for any purpose?
 19 A. No. I have answered this question
 20 before that it is not necessary.
 21 Q. And is your answer the same -- well,

1 one that I would present to him would be a
 2 contract among the two companies. This is a
 3 manufacturing contract by third parties.
 4 Q. You have used the term "third parties"
 5 before. What do you mean that this manufacturing
 6 agreement is a manufacturing agreement by third
 7 parties?
 8 A. This is what it is called in the
 9 pharmaceutical industry.
 10 Q. I only see two parties to the
 11 agreement.
 12 A. The third party is Belmac.
 13 Q. But Belmac is a party. It's
 14 Laboratorios Belmac and Laboratorios Ethypharm,
 15 S.A.
 16 A. I can imagine when I started my career
 17 I made the same question you're making now. Who
 18 is the first and who is the second. They are the
 19 third.
 20 THE INTERPRETER: May I interject
 21 something?

32 (Pages 122 to 125)

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1 MR. STEWART: Is it you, the
2 translator?
3 THE WITNESS: Yes. May I interject
4 something?
5 MR. STEWART: Let's go off the record.
6 THE VIDEOGRAPHER: The time is
7 16:06:45. Off the record.
8 (Discussion off the record.)
9 THE VIDEOGRAPHER: On the record, the
10 time is 16:09:07.
11 MR. STEWART: I'm going to ask the
12 stenographer to read back the last question and
13 answer.
14 (The record was read by the reporter.)
15 THE WITNESS: No, I can imagine. I can
16 imagine I made the same question when I started
17 my career.
18 MR. STEWART: He probably said "I can
19 imagine that I had the same question."
20 MR. BOSTWICK: Right. That's
21 definitely what he said.

1 Q. And that pursuant to that outsourcing
2 contract, Laboratorios Belmac is to manufacture
3 pharmaceutical products for Ethypharm?
4 A. Correct.
5 Q. And is that the reason -- well, let me
6 withdraw that.
7 So with that definition of term, why is
8 it that you did not consider it necessary for
9 Bentley Pharmaceuticals to be a part of the
10 manufacturing agreement, Exhibit 1?
11 A. I'm happy you asked this question.
12 This type of outsourcing contracts are obliged to
13 be responsible before the sanitary authorities.
14 For everybody knows that it's a legal -- legal
15 sanitary procedure, and that all companies sign a
16 contract among the parties. Much more important
17 than these.
18 Q. Did you believe that by Laboratorios
19 Belmac signing the manufacturing agreement that
20 is, Exhibit 1, that Laboratorios Belmac was also
21 binding Bentley Pharmaceuticals, Incorporated, to

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1 MR. STEWART: "I can imagine I had the
2 same question."
3 Q. So we're back on the record. And
4 during the break, our translator had suggested
5 that instead of the English phrase "third party,"
6 the appropriate description of the contract or
7 the relationship might be "outsourcing." Would
8 you comment with respect to that suggestion?
9 A. Yes. Sometimes we refer to that as
10 outsourcing contracts, but most of the time we
11 call them third-party contracts. And some people
12 call it machila.
13 Q. As tempted as I am to find out what
14 machila is, I'm not going to ask.
15 A. I could not answer.
16 Q. I'm going to use the phrase
17 "outsourcing." Is it your testimony that the
18 manufacturing agreement that we have been talking
19 about is an outsourcing contract between
20 Ethypharm and Laboratorios Belmac?
21 A. Correct.

1 its terms?
2 A. I don't understand the question. Can
3 you explain it better?
4 Q. Did you believe that Adolfo Herrera,
5 when he signed Exhibit 1, was also signing the
6 manufacturing agreement for Bentley
7 Pharmaceuticals, Incorporated?
8 A. It says here Belmac.
9 Q. So your answer is no?
10 A. This is not a contract among important
11 companies. As I said, this is an outsourcing
12 contract, and it's necessary for -- to do the
13 work.
14 Bentley should not be involved in this.
15 What I am totally sure is that Herrera talked to
16 Murphy about it, and I cannot comprehend why they
17 only wanted to sign two pages. I have never
18 understood why. No matter how much I thought
19 about it, I could not see it. What were they
20 trying to do by signing only two pages?
21 Q. "They" meaning who? Meaning

33 (Pages 126 to 129)

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1 Laboratorios Belmac?
 2 A. Belmac and Bentley. This is something
 3 between Mr. Murphy and Adolfo Herrera.
 4 Q. In your own mind, when Adolfo Herrera
 5 signed for Laboratorios Belmac, did you believe
 6 that he was also signing for Bentley
 7 Pharmaceuticals?
 8 MR. BOSTWICK: Objection, asked and
 9 answered. I think that was the exact same
 10 phrasing.
 11 MR. STEWART: Well, the answer, though,
 12 was mostly nonresponsive, as far as I know.
 13 Q. Can you answer my question?
 14 A. Can you repeat the question?
 15 MR. STEWART: I think I'll have our
 16 stenographer read that back.
 17 (The record was read by the reporter.)
 18 A. May I answer?
 19 Q. Yes.
 20 A. He was not signing on behalf of Bentley
 21 Corporation, but with the total agreement of

1 is 16:29:28.
 2 MR. BOSTWICK: And just to make an
 3 initial comment the record, to the extent that it
 4 has not been produced or is not in the course of
 5 coming over, we would request that this is
 6 produced with a formal Bates stamp, just so we're
 7 clear as to which documents have been produced in
 8 the ordinary course.
 9 MR. STEWART: Right.
 10 Q. Mr. De Basilio, do you have my
 11 question?
 12 A. Nope, I don't.
 13 Q. Can you tell us what Exhibit 7 is?
 14 A. This is the type of problems that we
 15 had before Mr. Murphy took control of Belmac
 16 Spain.
 17 When Mr. Murphy came to take control of
 18 Belmac in Spain, this is one of the things I
 19 communicated to him, that we needed to have the
 20 export permits for the export of our products,
 21 that we needed to have this free sales

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1 Mr. Murphy.
 2 Q. I'm going to turn to what I think is a
 3 related topic, and that has to do with something
 4 called free sales certificate.
 5 And let's have marked as the next
 6 exhibit a document dated February 27th of 1998.
 7 (Deposition Exhibit No. 7 marked for
 8 identification.)
 9 BY MR. STEWART:
 10 Q. Would you please look at what we have
 11 marked as Exhibit 7 and tell me what this
 12 document refers to.
 13 MR. BOSTWICK: Before he answers, can I
 14 just note that this doesn't have a Bates stamp on
 15 it? Has this been produced?
 16 MR. STEWART: Let's go off the record
 17 for a minute.
 18 THE VIDEOGRAPHER: The time is
 19 15:23:51. Off the record.
 20 (Discussion off the record.)
 21 THE VIDEOGRAPHER: On record. The time

1 certificate. At that point we were being charged
 2 an excessive amount.
 3 Q. Let me interrupt just a moment.
 4 Changed an excessive amount by whom?
 5 A. Mr. Perez de Ayala.
 6 Q. Please continue.
 7 A. Then Mr. Murphy give me the
 8 authorization, given the fact that his employees
 9 didn't speak English and he, himself, didn't
 10 speak Spanish, to talk with Mr. Clemente
 11 Gonzalez, C-L-E-M-E-N-T-E, G-O-N-Z-A-L-E-Z, and
 12 to establish the correct price.
 13 MR. STEWART: The correct what?
 14 THE INTERPRETER: Price.
 15 Q. Are we looking at the same document?
 16 A. Um-hmm. I will finish soon.
 17 Only those who have -- who are the
 18 holders of commercialization licenses can have
 19 the free sales certificate.
 20 As I said before, Ethypharm do not
 21 commercialize, and therefore, doesn't have the

34 (Pages 130 to 133)

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1 opportunity to have a free sales certificate.
 2 Q. What is a free sales certificate?
 3 A. A document issued by the Spanish Agency
 4 of Drugs that based on the product that exists
 5 for sale in Spain, they issue a certificate to be
 6 able to export that.
 7 Therefore, in this text, we are asking
 8 Belmac to explain -- to explain to Ethypharm so
 9 that they could send it to their own clients,
 10 explaining what is the relationship between
 11 Ethypharm and Belmac.
 12 Q. Who could send what to their own
 13 clients?
 14 A. Ethypharm could send a certificate that
 15 is issued by Belmac explaining the relationship
 16 between Ethypharm and Belmac.
 17 And why is this? In the past, before
 18 Mr. Murphy took control, boxes containing the
 19 product for export went out only with the name of
 20 Belmac. And it happened that a client of ours
 21 received the product and returned the product,

1 Incorporated, able to issue a free sales
 2 certificate?
 3 A. For the United States, yes.
 4 Q. Not for Spain?
 5 A. For Spain, it was Mr. Murphy that gave
 6 us the possibility of doing it.
 7 Q. But did Bentley Pharmaceuticals,
 8 Incorporated, that corporation, have the ability
 9 to issue a free sales certificate?
 10 A. We were working on the Spanish market,
 11 and what we needed was a free sales certificate
 12 for the Spanish market.
 13 THE WITNESS: From the Spanish market.
 14 THE INTERPRETER: From the Spanish
 15 market.
 16 Q. What is the answer to my question?
 17 A. There is no explanation for that, reply
 18 for that, because you can only obtain a free
 19 sales certificate for the Spanish market from the
 20 Spanish market.
 21 Q. And Bentley Pharmaceuticals,

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1 arguing that this was not an Ethypharm product,
 2 because it only said Belmac. Therefore, we
 3 needed a certificate explaining the situation.
 4 The certificate is among the document. I have
 5 seen it.
 6 Q. When did the example that you just
 7 described to us take place; that is, the example
 8 of a client returning product because it only had
 9 a Belmac label on it?
 10 A. If I'm not -- my memory doesn't fail
 11 me, I believe that it was an incident with the
 12 Leciva -- L-E-C-I-V-A -- Laboratories in the
 13 Czech Republic.
 14 Q. And what year?
 15 A. That, I don't remember.
 16 Q. So Laboratorios Belmac was able to
 17 issue a free sales certificate, correct?
 18 A. Correct.
 19 Q. And to confirm, are you aware of --
 20 withdraw that.
 21 Was Bentley Pharmaceuticals,

1 Incorporated, did not have authorization from the
 2 Spanish drug agency, correct?
 3 A. No. It would be absurd.
 4 MR. STEWART: Let's go off the record
 5 just for a minute.
 6 THE VIDEOGRAPHER: The time is
 7 16:41:44. Off the record.
 8 MR. STEWART: I'm going to mark a
 9 couple of documents, just to get these out of the
 10 way.
 11 (Deposition Exhibit Nos. 8, 9, 10 and
 12 11 marked for identification.)
 13 THE VIDEOGRAPHER: On the record. The
 14 time is 16:46:34.
 15 BY MR. STEWART:
 16 Q. Mr. De Basilio, I'm showing you three
 17 documents which we have marked for identification
 18 Exhibits 8, 9 and 10. Would you look at these
 19 exhibits, please, and tell us what they are?
 20 MR. BOSTWICK: Perhaps I can ask that
 21 he refer to one document at a time so we can have

35 (Pages 134 to 137)

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1 a clear record.

2 MR. STEWART: Right.

3 A. Shall we begin with the first?

4 Q. Can we start with Exhibit 8? Yes.

5 A. What is the question?

6 Q. The question is, what is the purpose
7 of -- what is the purpose of Exhibit 8?

8 A. I have forgotten, and I doubt that it
9 was ever mailed, because it's without my
10 signature.

11 Q. Is Laborotorios or was Laborotorios
12 Madaus a client of Ethypharm?

13 A. Yes.

14 Q. And where was Laborotorios Madaus
15 located?

16 A. In Barcelona.

17 Q. And does this document in any way
18 relate to the representations that we discussed
19 in connection with Exhibit 7?

20 A. No, it has nothing to do with it.

21 Q. According to this letter, it appears

1 A. This is what I was trying to explain

2 before, that our clients didn't know what was our
3 relationship, and they wanted an explanation.

4 Q. And when you received the type of
5 request from a client, did you request
6 Laborotorios Belmac to provide you with a
7 statement?

8 MR. BOSTWICK: Objection, asked and
9 answered.

10 A. Yes, because I had said before, we used
11 to send boxes without the name of Ethypharm or
12 the documentation, and we used to get returns,
13 these were.

14 Q. When you said that we used to send
15 boxes --

16 A. Ethypharm from Belmac. But also
17 Mr. Rejholec is stating that it's a requirement
18 from its own sanitary authorities. The same
19 thing as I have explained as to what we call the
20 outsourcing contract.

21 Q. What was the same thing?

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1 that you are informing Laborotorios Madaus of the
2 relationship between Belmac and Ethypharm.

3 A. Yes, that's what it seems in reading
4 it.

5 Q. Why would you be doing that?

6 A. I have said I don't remember, but it is
7 said in the beginning in reply to your question,
8 a claratory (sic) explanation --

9 Q. Turn to Exhibit 9. Did you have
10 dealings with the gentleman whose name appears on
11 the first page of Exhibit 9?

12 A. Baclev Rejholec.

13 Q. And Mr. Rejholec was an employee of
14 Lachiva?

15 A. Yes.

16 Q. When you received this request for a
17 statement of cooperation between Ethypharm and
18 Belmac, what did you do?

19 A. I sent it to Belmac.

20 Q. And did Belmac provide you with that
21 statement of cooperation?

1 A. The sanitary authorities demand that

2 there is a contract between the owner in this
3 case of the technology and the -- in this case
4 Ethypharm -- and the manufacturer of the product,
5 in this case Belmac.

6 Q. Did Ethypharm provide to Belmac the
7 language that it requested be sent?

8 MR. BOSTWICK: Are we talking about
9 Exhibit 9, specifically, or all three?

10 MR. STEWART: All of them, but let's
11 say Exhibit 9, specifically.

12 A. Number 9 was sent by the client
13 themselves. But number 7 that we saw before,
14 Belmac didn't accept it and crossed it out and
15 issued another that exists in their own language.

16 Q. And number 10?

17 A. It's exactly the same. I don't know
18 why it's been included.

19 MR. STEWART: Because it's getting late
20 and we marked the same exhibit twice.

21 Let's go off the record for just a

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1 minute.
 2 THE VIDEOGRAPHER: The time is
 3 16:59:11. Off the record.
 4 (Discussion off the record.)
 5 THE VIDEOGRAPHER: On the record. The
 6 time is 17:01:06.
 7 BY MR. STEWART:
 8 Q. Mr. De Basilio earlier this morning you
 9 were describing to me the employees that were
 10 hired for Ethypharm Spain and we had left off
 11 with Ignacio Alvarez, and I had asked you what
 12 Mr. Alvarez' duties were and that led us down a
 13 rather lengthy path.
 14 So in addition to Mr. Ignacio Alvarez,
 15 tell me who were the other employees that were
 16 hired for Ethypharm Spain and their dates,
 17 please.
 18 A. Ignacio Salmador, S-A-L-M-A-D-O-R, and
 19 the intern that we mentioned.
 20 Q. Was Ignacio Salmador the intern?
 21 A. No. Besides the intern.

1 commercialized by one of the clients of
 2 Ethypharm.
 3 As we were totally involved in the
 4 issue of omeprazole, I was forced to hire
 5 somebody else to continue with this monitoring,
 6 which was lesser -- an issue of lesser importance
 7 from the commercial standpoint of view.
 8 Q. Do you remember the name of the intern?
 9 A. Chantelle. She was French.
 10 Q. Chantelle Igonet. And that was Eric
 11 Igonet's daughter?
 12 A. Yes.
 13 Q. What did Chantelle Igonet do?
 14 A. To do tests that is required in order
 15 to obtain the degree as a pharmacist. She was a
 16 pharmacist. She was a student of -- and in the
 17 last year of her career.
 18 Q. And when did Chantelle serve as an
 19 intern for Ethypharm Spain?
 20 A. Around the year 2000.
 21 Q. So the employees that we have talked

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1 Q. So what were Ignacio Salmador's duties?
 2 A. Regulatory issues.
 3 Q. Describe some examples of the
 4 regulatory issues that Mr. Salmador would be
 5 involved in.
 6 A. As I said in the beginning this
 7 morning, and also from the beginning of my career
 8 with Ethypharm, I had -- I was forced to do
 9 everything, but one of my duties under the
 10 contract was to monitor the registries.
 11 Q. For what purpose were you monitoring
 12 the registries?
 13 A. I said it this morning already, but if
 14 you want, I can repeat it.
 15 Q. Briefly.
 16 A. France puts together the entire dossier
 17 and presents it in the sanitary ministry in the
 18 country. And in order for this dossier to
 19 advance, you have to monitor it when it goes from
 20 one stage to the other until it reaches the final
 21 approval in order for the product to be

1 about in addition to yourself are Eloy Gonzalez,
 2 Ignacio Alvarez and Ignacio Salmador. And the
 3 intern is Chantelle Igonet, and at various times
 4 there was a secretary who performed secretarial
 5 functions?
 6 A. And there was a point at which we had
 7 two secretaries.
 8 Q. Two secretary in addition to Eloy
 9 Gonzalez?
 10 A. Yes.
 11 Q. So I will refer to Eloy Gonzalez as a
 12 factotum, okay?
 13 A. That's better.
 14 Q. And I will refer to Ignacio Alvarez as
 15 a factotum.
 16 A. In reality, he was the factotum in
 17 financial affairs and in the contacts with the
 18 manufacturing plant.
 19 Q. That Mr. Ignacio Alvarez had contacts
 20 with Laboratorios Belmac's facility?
 21 A. Yes. I remember he was doing the work

37 (Pages 142 to 145)

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1 of at least eleven people. Because when France
2 asked to dismiss everybody --
3 MR. STEWART: I'm sorry, when France
4 asked --

5 THE INTERPRETER: To dismiss
6 everybody --

7 A. Ignacio could only be replaced by
8 eleven people. That's why he's a factotum.

9 Q. I don't mean to question you, but -- to
10 question unnecessarily the last statement, but
11 are you serious that there were eleven people
12 that would have been required to replace Ignacio
13 Alvarez?

14 A. It wouldn't be relevant for what we're
15 discussing, but if you want me to, I can explain
16 it now.

17 Q. Well, briefly.

18 A. With a very small staff, we had
19 achieved, and also with a lot of outsourcing, to
20 create a highly productive small business. And I
21 was in charge of handling those posts in order to

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1 A. Yes. They closed Ethypharm Spain and
2 all those jobs were transferred to France.

3 MR. STEWART: Why don't we go off the
4 record.

5 THE VIDEOGRAPHER: The time is
6 17:16:20. Off the record.

7 (Discussion off the record.)

8 This ends tape number three and
9 concludes volume one of the testimony of Adolfo
10 de Basilio in the matter of Ethypharm versus
11 Bentley Pharmaceuticals. The date is August 2nd,
12 2006. The time is 17:16:44. Off the record.

13 (Signature not waived.)

14 (At 12:30 p.m., the deposition was
15 concluded.)

16 - - -

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1 make them very productive. This is related to my
2 own personal work.

3 I don't know if I can add something. I
4 did know that we worked hard, but I was surprised
5 that he was doing the work of eleven people.

6 Q. Who -- and I agree that this is
7 probably not entirely germane to the topic that
8 we have been addressing, but who told you that it
9 took eleven people to do his job?

10 A. Very simple. I received a sheet of
11 paper -- I don't know if it was one or five --
12 there were several pieces of paper in which they
13 described all the tasks that were being performed
14 by Ignacio and all the people there were required
15 to fulfill them now. So I saw the different
16 names of the people and counted them. And I may
17 be mistaken, maybe there were nine, but there
18 were a lot.

19 Q. When you say that there were people,
20 they were people at Ethypharm France that now had
21 to perform those tasks; is that correct?

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1 ACKNOWLEDGMENT OF DEPONENT

2 I, Adolfo De Basilio, do hereby
3 acknowledge that I have read and examined the
4 foregoing pages of testimony, and the same is a
5 true, correct and complete transcription of the
6 testimony given by me, and any changes and/or
7 corrections, if any, appear in the attached
8 errata sheet signed by me.

9

10

11 Date Name

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1 ESQUIRE DEPOSITION SERVICES
 2 1020 19TH STREET, N.W.
 3 SUITE 620
 4 WASHINGTON, D.C. 20036
 5 (202) 429-0014
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 7 Case Name: Ethypharm vs. Bentley Pharmaceuticals
 8 Witness Name: Adolfo De Basilio
 9 Deposition Date: August 2, 2006
 10 Job No.: 175557
 11 Reason for
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 21 Signature Date

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1 CERTIFICATE OF NOTARY PUBLIC
 2 I, George W. Tudor, the officer before
 3 whom the foregoing deposition was taken, do
 4 hereby certify that the witness whose testimony
 5 appears in the foregoing deposition was duly
 6 sworn by me; that the testimony of said witness
 7 was taken stenographically by me and thereafter
 8 reduced to typewriting by me or under my
 9 direction; that said deposition is a true record
 10 of the testimony given by said witness; that I am
 11 neither attorney nor counsel for, nor related to
 12 or employed by any of the parties to the action
 13 in which this deposition is taken, and further,
 14 that I am not a relative or employee of any
 15 attorney or counsel employed by the parties
 16 hereto or financially interested in this action.
 17
 18
 18 Date George W. Tudor
 19 My Commission expires Notary Public in and for
 19 January 1, 2007 the District of Columbia
 20
 21

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